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United States Department of Agriculture War Food Administration

OFFICE OF MARKETING SERVICES

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 130, REVISED¹

REGULATIONS FOR WAREHOUSEMEN STORING DRY BEANS

Issued by the War Food Administrator under the United States
Warehouse Act of August 11, 1916, as Amended

(Title 7, Ch. I, Pt. 106, of the Code of Federal Regulations)

CONTENTS

Page		Page	
Definitions.....	2	Duties of licensed warehouseman—Continued.....	
Sec.		Sec.	
106.1 Meaning of words.....	2	106.34 Arrangement and tagging of stored beans.....	8
106.2 Terms defined.....	2	106.35 Nonidentity preserved beans; grading; weighing.....	8
Warehouse licenses.....	3	106.36 Delivery of beans from storage.....	9
106.3 Application forms.....	3	106.37 System of accounts.....	9
106.4 Grounds for not issuing license.....	3	106.38 Reports.....	9
106.5 Net assets required.....	3	106.39 Copies of reports to be kept.....	9
106.6 License shall be posted.....	3	106.40 Canceled receipts; auditing.....	9
106.7 Suspension or revocation of warehouse licenses.....	3	106.41 Inspection and examination of warehouses.....	9
106.8 Return of suspended or revoked warehouse licenses.....	4	106.42 Weighing apparatus; inspection.....	9
106.9 Lost or destroyed warehouse licenses.....	4	106.43 Warehouse to be kept clean.....	9
106.10 Unlicensed warehousemen must not represent themselves as licensed.....	4	106.44 Fumigation of warehouse.....	9
Warehouse bonds.....	4	106.45 Damp, dirty, frosted beans; no storage.....	9
106.11 Time of filing.....	4	106.46 Care in storage of beans.....	10
106.12 Basis of amount of bond; additional amounts.....	4	106.47 Reconditioning deteriorated beans.....	10
106.13 Amendment to license.....	5	106.48 Procedure in handling deteriorated beans.....	10
106.14 New bond required each year.....	5	106.49 Excess storage.....	10
106.15 Approval of bond.....	5	106.50 Removal of beans from storage.....	10
Warehouse receipts.....	5	106.51 Signatures of persons signing receipts.....	11
106.16 Form.....	5	106.52 Signs of tenancy; posting.....	11
106.17 Copies of receipts.....	6	106.53 Fire loss to be reported by wire.....	11
106.18 Lost or destroyed receipts, bond.....	6	106.54 Copies of certificates to be filed with warehouseman.....	11
106.19 Approval of form of receipt.....	6	Fees.....	
106.20 Partial delivery of beans.....	6	106.55 Warehouse license fees.....	11
106.21 Return of receipts before delivery of beans.....	6	106.56 Warehouse inspection fees.....	11
106.22 Nonnegotiable receipts; releases.....	7	106.57 Advance deposit.....	11
106.23 Omission of grade; no compulsion by warehouseman.....	7	106.58 Return of excess deposit.....	11
Duties of licensed warehouseman.....	7	Licensed inspectors and weighers.....	12
106.24 Beans must be inspected.....	7	106.59 Inspector's and weigher's application.....	12
106.25 Insurance; requirements.....	7	106.60 Examination of applicant.....	12
106.26 Premiums; inspections; reports.....	7	106.61 Posting of license.....	12
106.27 Shrinkage of beans.....	7	106.62 Duties of licensees.....	12
106.28 Care of beans in storage.....	7	106.63 Inspection certificate; form.....	12
106.29 Care of nonlicensed beans or other commodities.....	7	106.64 Weight certificate; form.....	13
106.30 Records to be kept in safe place.....	8	106.65 Combined inspection and weight certificate.....	13
106.31 Warehouse charges.....	8	106.66 Copies of certificates to be kept.....	13
106.32 Business hours.....	8	106.67 Licensees to permit and assist in examination.....	13
106.33 Tagging identity-preserved beans.....	8		

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CONTENTS—Continued

	Page		Page
Licensed inspectors and weighers—Continued.		Appeal of grades.....	14
Sec.		Sec.	
106.68 Reports.....	13	106.76 Conditions and procedure of ap-	14
106.69 Licenses; suspension or revoca-		peal.....	14
tion.....	13	Miscellaneous.....	15
106.70 Suspended or revoked license; re-		106.77 Bonds required.....	15
turn; termination of license....	14	106.78 Publications.....	15
106.71 Lost or destroyed licenses.....	14	106.79 Information of violations.....	15
106.72 Unlicensed inspector or weigher;		106.80 Procedure in hearings.....	15
misrepresentation.....	14	106.81 One document and one license to	
Bean inspection and classification.....	14	cover several products.....	16
106.73 Statement of classification.....	14	106.82 Bond for combination warehouse	16
106.74 Standards to be used.....	14	106.83 Amendments.....	16
106.75 Statement of variety, grade, con-		U. S. Warehouse Act.....	17
dition.....	14		

Pursuant to the provisions of the United States Warehouse Act approved August 11, 1916, as amended (39 Stat. 486–491, 41 Stat. 266, 42 Stat. 1282, 46 Stat. 1463; 7 U.S.C. 241–273, and by virtue of the authority vested in the War Food Administrator by Executive orders of the President, the following revision of the regulations for dry bean warehouses, as amended, and as they now appear in Title 7, Chapter I, Subchapter D, Part 106, of the Code of Federal Regulations, and the Cumulative Supplement thereto, is hereby promulgated.

DEFINITIONS

106.1 Meaning of words.—Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

106.2 Terms defined.—When used in these regulations unless otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(a) “Beans” means only dry edible beans used for human consumption.

(b) “The act” means the United States Warehouse Act approved August 11, 1916 (39 Stat. 486), as amended; 7 U.S.C. 241–273.

(c) “Person” means an individual, corporation, partnership, or two or more persons having a joint or common interest.

(d) “Department” means the United States Department of Agriculture or the War Food Administration.

(e) “Secretary” means the Secretary of Agriculture or the War Food Administrator or any officer or employee of the Department to whom the Secretary or the War Food Administrator has heretofore lawfully delegated or may hereafter lawfully delegate the authority to act in his stead.

(f) “Director” means the Director of the Office of Marketing Services, War Food Administration, or any officer or employee of the Department to whom the Director has heretofore lawfully delegated or may hereafter lawfully delegate the authority to act in his stead.

(g) “Designated representative” means the Director of the Office of Marketing Services, or any officer or employee of the Department to whom the Director has heretofore lawfully delegated or may hereafter lawfully delegate the authority to act in his stead.

(h) “Office” means the Office of Marketing Services.

(i) “Regulations” means rules and regulations made under the act by the Secretary.

(j) “Warehouse” means, unless otherwise clearly indicated by the context, any building, structure, or other protected inclosure in which beans are or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which beans are or may be stored and for which a license has been issued under the act.

(k) “Warehouseman” means, unless otherwise clearly indicated by the context, any person lawfully engaged in the business of storing beans and holding a warehouse license.

(l) “License” means a license issued under the act by the Secretary.

(m) “Licensed warehouseman’s bond” means a bond required to be given under the act by a licensed warehouseman.

(n) "Licensed inspector" means a person licensed under the act by the Secretary to sample, to inspect, and to grade and to certificate the condition for storage and the grade of beans.

(o) "Licensed weigher" means a person licensed under the act by the Secretary to weigh and to certificate the weight of beans stored or to be stored under the act.

(p) "Receipt" means a warehouse receipt as prescribed by the act and regulations.

(q) "Dockage." See "Pick."

(r) "Pick" includes any material other than beans, together with undeveloped, shriveled, discolored, damaged, split, and small pieces of beans which are picked by hand or eliminated by mechanical means from the lot. The pick shall be calculated in terms of percentage based on the total weight of the beans including the material to be eliminated.

WAREHOUSE LICENSES

106.3 Application forms.—Applications for licenses under sections 4 and 9 of the act and for amendments thereto shall be made to the Secretary upon forms prescribed for the purpose and furnished by the Office, shall be in English, shall truly state the information therein contained, and shall be signed by the applicant. The applicant shall at any time furnish such additional information as the Secretary or his designated representative shall find to be necessary to the consideration of his application.

106.4 Grounds for not issuing license.—A license for the conduct of a warehouse shall not be issued if it be found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of beans, that the warehouseman is incompetent to conduct such warehouse in accordance with the act and these regulations, or that there is any other sufficient reason within the intent of the act for not issuing such license.

106.5 Net assets required.—Any warehouseman conducting a warehouse licensed or for which application for license has been made under the act shall have and maintain above all exemptions and liabilities net assets liable for the payment of any indebtedness arising from the conduct of the warehouse, to the extent of at least 20 cents per hundredweight of the maximum number of hundredweight that the warehouse will accommodate when stored in the manner customary to the warehouse as determined by the Director, except that the amount of such assets shall not be less than \$5,000, and need not be more than \$100,000. If such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, such warehouses shall be deemed to be one warehouse for the purposes of the assets required under this section. For the purposes of this section only, paid-in capital stock, as such, shall not be considered a liability. Any deficiency in the required net assets may be supplied by an increase in the amount of the warehouseman's bond in accordance with paragraph (b) of section 106.12.

106.6 License shall be posted.—Immediately upon receipt of his license or of any amendment thereto under the act, the warehouseman shall post the same and thereafter, except as otherwise provided in these regulations, keep it posted until suspended or terminated, in a conspicuous place in the principal office where receipts issued by such warehouseman are delivered to depositors.

106.7 Suspension or revocation of warehouse licenses.—Pending investigation, the Secretary, or his designated representative, whenever he deems it necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor submitted by a warehouseman, the Secretary, or his designated representative, may, without hearing suspend or revoke the license issued to such warehouseman. The Secretary, or his designated representative, may, after opportunity for hearing has been afforded in the manner prescribed in this section, cancel a license issued to a warehouseman when such warehouseman is (a) bankrupt or insolvent, (b) has parted in whole or in part with his control over the licensed warehouse, (c) is in process of dissolution or has been dissolved, (d) has ceased to conduct such licensed warehouse, or (e) has in any other manner become nonexistent or incompetent or incapacitated to

conduct the business of the warehouse. Whenever any of the conditions mentioned in paragraphs (a) to (e) of this section shall come into existence it shall be the duty of the warehouseman to notify the Director immediately of the existing condition. Before a license is revoked for any violation of, or failure to comply with, any provisions of this act or of these regulations, or upon the ground that unreasonable or exorbitant charges have been made for services rendered, a notice in writing specifying the charges shall be served by the Secretary or by his designated representative upon the warehouseman involved. Within twenty days after receipt of the statement of charges the warehouseman may file with the Secretary or his designated representative an answer in writing which may include affidavits or other instruments evidentiary in nature and a request for an oral hearing, opportunity for which shall be afforded in accordance with section 106.80. Failure by the warehouseman to request an oral hearing within the time allowed for the filing of the answer shall constitute a waiver of such hearing, and any warehouseman so failing to request a hearing will be deemed to have agreed that the Secretary or his designated representative may, upon the basis of the information before him, take such action as he deems warranted, including the holding of an oral hearing or the final disposition without such hearing of the matter by issuance of such final order as he may deem appropriate.

106.8 Return of suspended or revoked warehouse licenses.—When a license issued to a warehouseman terminates, or is suspended, or revoked by the Secretary or his designated representative, it shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless it be in the meantime revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the licensed warehouseman to whom it was originally issued, and it shall be posted as prescribed in section 106.6.

106.9 Lost or destroyed warehouse licenses.—Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate thereof or a new license may be issued under the same number.

106.10 Unlicensed warehousemen must not represent themselves as licensed.—No warehouse or its warehouseman shall be designated as licensed under the act and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise, unless such warehouseman holds an unsuspended and unrevoked license for the conduct of such warehouse.

WAREHOUSE BONDS

106.11 Time of filing.—Unless the warehouseman has previously filed with the Secretary the necessary bond required by section 106.12, he shall file such bond within a time, if any, specified by the Secretary, or his designated representative, said bond to cover all obligations arising thereunder during the period of the license.

106.12 Basis of amount of bond; additional amounts.—(a) Exclusive of any amount which may be added in accordance with paragraphs (b) and (c) of this section, the amount of such bond shall be at the rate of 20 cents per hundredweight or fractional part thereof, of the maximum number of hundredweight that the warehouse will accommodate when stored in the manner customary to the warehouse for which such bond is required, as determined by the Director, but not less than \$5,000 nor more than \$50,000. If such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, and shall desire to give a single bond meeting the requirements of the act and these regulations for said warehouses, such warehouses shall be deemed to be one warehouse for the purposes of the bond required under this section.

(b) In case of a deficiency in net assets under section 106.5 there shall be added to the amount of the bond, fixed in accordance with paragraph (a) of this section, an amount equal to such deficiency.

(c) If the Secretary, or his designated representative, finds the existence of conditions warranting such action, there shall be added to the amount fixed in accordance with paragraphs (a) and (b) of this section a further amount, fixed by him, to meet such conditions.

106.13 Amendment to license.—If application is made under section 106.3 for an amendment to a license and no bond previously filed by the warehouseman under these regulations covers obligations arising during the period of such amendment, the warehouseman shall, when notice has been given by the Secretary, or his designated representative, that his application for such amendment will be granted upon compliance by such warehouseman with the act, file with the Secretary, within a time, if any, fixed in such notice, a bond complying with the act, unless bond in sufficient amount has been filed since the filing of such application. In the discretion of the Secretary, a properly executed instrument in form approved by him, amending, extending or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the act and these regulations may be filed in lieu of a new bond.

106.14 New bond required each year.—A continuous form of license shall not remain in force for more than one year from its effective date, or any subsequent extension thereof, unless each year not more than 30 days before the date on which the license would expire, the warehouseman files a bond in the required amount with the Secretary and such bond has been approved by him or his designated representative.

106.15 Approval of bond.—No bond, amendment or continuation thereof shall be deemed accepted for the purposes of the act and these regulations until it has been approved by the Secretary, or by his designated representative.

WAREHOUSE RECEIPTS

106.16 Form.—(a) Every receipt, whether negotiable or nonnegotiable, issued for beans stored in a warehouse shall, in addition to complying with the requirements of section 18 of the act, embody within its written or printed terms the following: (1) the name of the licensed warehouseman and the designation, if any, of the warehouse, (2) the license number of the warehouse, (3) a statement whether the warehouseman is incorporated or unincorporated, and if incorporated, under what laws, (4) in the event the relationship between the warehouseman and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship, (5) the tag number given to each lot of beans in accordance with section 106.33, (6) a statement conspicuously placed, whether or not the beans are insured, and, if insured, to what extent, by the warehouseman against loss by fire, lightning, or tornado, (7) a blank space designated for the purpose in which the condition of the beans shall be stated, (8) a blank space designated for the purpose in which the variety of the beans shall be stated, (9) the net weight, as well as the dockage or pick, if any, (10) the words "Negotiable," or "Nonnegotiable," according to the nature of the receipt, clearly and conspicuously printed or stamped thereon, and (11) a statement indicating the amount of shrinkage and/or pickage agreed upon between the depositor and the warehouseman, in the case of nonidentity-preserved beans.

(b) Every receipt, whether negotiable or nonnegotiable, issued for beans stored in a warehouse shall specify a period, not exceeding one year, for which the beans are accepted for storage under the act and these regulations, but, upon demand and surrender of the old receipt by the lawful holder thereof at or before the expiration of the specified period, the warehouseman, upon such lawful terms and conditions as may be granted by him at such time to other depositors of beans in the warehouse, may issue a new receipt for a further specified period not exceeding one year: *Provided*, (1) In the case of beans stored identity preserved it is first actually determined by a licensed inspector that the beans have not deteriorated and are in proper condition for further storage; and (2) in the case of beans stored on a fungible basis that the warehouseman determines the total quantity of beans covered by outstanding receipts calling for the same grade of beans as called for by the surrendered receipt, that the licensed inspector determines that all beans of the grade in question and stored on a fungible basis are in proper condition for further storage, and that the warehouseman determines that he has sufficient quantity of beans of the proper grade as determined by the licensed inspector to cover all outstanding receipts including the surrendered receipt.

(c) The grade stated in a receipt issued for beans the identity of which is not to be preserved shall be stated as determined by the licensed grader who last graded the beans before the issuance of such receipt; and such receipt shall embody within its written or printed terms the following: (1) that the beans covered by the receipt were inspected and graded by a licensed inspector, and (2) a form of indorsement which may be used by the depositor, or his authorized agent, for showing the ownership of, and liens, mortgages or other encumbrances on the beans covered by the receipt.

(d) Whenever the grade or other class of beans is stated in a receipt issued for beans stored in a warehouse, such grade or other class shall be stated in the receipt in accordance with sections 106.73 to 106.75.

(e) If a warehouseman issues a receipt omitting the statement of grade on request of the depositor as permitted by section 18 of the act, such receipt shall have clearly and conspicuously stamped or written on the face thereof the words "Not graded on request of depositor."

(f) If a warehouseman issues a receipt under the act omitting any information not required to be stated for which a blank space is provided in the form of the receipt, a line shall be drawn through such space to show that such omission has been made by the warehouseman.

106.17 Copies of receipts.—If copies are made of receipts, all such copies, except those issued in lieu of the original in case of lost or destroyed receipts, shall have clearly and conspicuously printed or stamped thereon the words "Copy—not negotiable." If copies are not made, then skeleton copies bearing the same numbers as the corresponding original receipts shall be made, but such skeleton copies need not be marked "Copy—not negotiable."

106.18 Lost or destroyed receipts; bond.—(a) In the case of a lost or destroyed receipt, a new receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate issued in lieu of a lost or destroyed receipt, may be issued upon compliance with the conditions set out in paragraph (b) of this section.

(b) Before issuing such new or duplicate receipt, the warehouseman shall require the depositor or other person applying therefor to make and file with the warehouseman (1) an affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and if lost, that diligent effort has been made to find the receipt without success and (2) a bond in an amount double the value, at the time the bond is given, of the beans represented by the lost or destroyed receipt. Such bond shall be in the form approved for the purpose by the Secretary, or his designated representative, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such duplicate receipt, and shall have as surety thereon preferably a surety company which is authorized to do business, and is subject to service of process in a suit on the bond in the State in which the warehouse is located, or at least two individuals who are residents of such State and each of whom owns real property therein having a value, in excess of all exemptions and encumbrances, equal to the amount of the bond.

106.19 Approval of form of receipt.—No receipt shall be issued by a licensed warehouseman except it be (a) in form prescribed by the Director, (b) upon distinctive paper specified by him, (c) printed by a printer with whom the United States has a subsisting contract and bond for such printing, and (d) on paper manufactured by and procured from a manufacturer with whom the United States has a subsisting contract and bond for the manufacture of such paper.

106.20 Partial delivery of beans.—If a warehouseman delivers a part only of a lot of beans for which he has issued a negotiable receipt under the act, he shall take up and cancel such receipt and issue a new receipt in accordance with these regulations for the undelivered portion of the beans. The new receipt shall show the date of issuance and also indicate the number and date of the old receipt.

106.21 Return of receipts before delivery of beans.—Except as permitted by law or by these regulations, a warehouseman shall not deliver beans for which he has issued a negotiable receipt until the receipt has been returned to him and canceled, and shall not deliver beans for which he has issued a nonnegotiable receipt until such receipt has been returned to him or he has

obtained from the person lawfully entitled to such delivery, or his authorized agent, a written order therefor.

106.22 Nonnegotiable receipts; releases.—Each person to whom a nonnegotiable receipt is issued shall furnish the warehouseman with a statement in writing indicating the person or persons having power to authorize delivery of beans covered by such receipt, together with the bona fide signature of such person or persons. No licensed warehouseman shall honor an order for the release of beans covered by a nonnegotiable receipt until he has first ascertained that the person issuing the order has authority to order such release, and that the signature of the releasing party is genuine.

106.23 Omission of grade; no compulsion by warehouseman.—No warehouseman shall, directly or indirectly, by any means whatsoever, compel or attempt to compel the depositor of any beans stored in his licensed warehouse to request the issuance of a receipt omitting the statement of grade.

DUTIES OF LICENSED WAREHOUSEMAN

106.24 Beans must be inspected.—No warehouseman shall accept beans for storage or any other purpose until they have been inspected and approved by a licensed inspector, nor store beans the identity of which is not to be preserved until their grade has been determined by a licensed inspector.

106.25 Insurance; requirements.—(a) Each warehouseman, when so requested in writing by the depositor of beans, or the lawful holder of the receipt for any beans, shall, to the extent to which, in the exercise of due diligence, he is able to procure such insurance, keep such beans while in his custody insured in his own name, to the extent so requested, against loss or damage by fire, lightning, or tornado. When insurance is not carried in the warehouseman's name, the receipt shall show that the beans are not insured by him. Such insurance shall be covered by lawful policies issued by one or more insurance companies authorized to do such business and subject to service of process in suits brought in the State where the warehouse is located. If the warehouseman is unable to procure such insurance to the extent requested, he shall, orally, or by telegraph or by telephone and at his own expense, immediately notify the person making the request. Nothing in this section shall be construed to prevent a warehouseman from adopting a rule that he will insure all beans.

(b) Each warehouseman shall keep exposed conspicuously in the place prescribed by section 106.6 and at such other place as the Director or his representative may from time to time designate, a notice stating briefly the conditions under which beans will be insured against loss or damage by fire, lightning, or tornado.

(c) Each warehouseman shall take promptly such steps as may be necessary and proper to collect any moneys which may become due under contracts of insurance entered into by him for the purpose of meeting the requirements of these regulations, and shall, as soon as collected, pay promptly to the persons concerned any portion of such moneys which they may be entitled to receive from him.

106.26 Premiums; inspections; reports.—Each warehouseman shall, in accordance with his contracts with insurance and bonding companies for the purpose of meeting the insurance and bonding requirements of these regulations, pay such premiums, permit such reasonable inspections and examinations, and make such reasonable reports as may be provided for in such contracts.

106.27 Shrinkage of beans.—When beans are received for storage, the warehouseman and the depositor shall agree upon an amount to be allowed for natural shrinkage and loss caused by rodents while the beans are in storage, and the amount so agreed upon shall be clearly stated in the warehouse receipt.

106.28 Care of beans in storage.—Each warehouseman shall at all times exercise such care in regard to beans in his custody as a reasonably careful owner would exercise under the same circumstances and conditions.

106.29 Care of nonlicensed beans or other commodities.—If at any time a warehouseman shall handle beans other than for storage, or shall handle or store any other commodity, he shall so protect the same and otherwise exercise such care with respect to them as not to endanger the beans in his custody as a warehouseman or impair his ability to meet his obligations and

perform his duties under the act and these regulations. If the warehouseman shall store commodities other than those for which he is licensed, a non-licensed receipt shall be issued, which shall contain in its terms a provision that said commodities are accepted for storage only until such time as the space which they may occupy may be needed for products for the storage of which the warehouseman is licensed. Under no circumstances shall any commodities for the storage of which the warehouseman is not licensed be stored if the storage of such commodities might adversely affect the commercial value, or the insurance on beans covered by licensed receipts.

106.30 Records to be kept in safe place.—Each warehouseman shall provide a metal fireproof safe, a fireproof vault, or a fireproof compartment in which he shall keep, when not in actual use, all records, books, and papers pertaining to the warehouse, including his current receipt book, copies of receipts issued, and canceled receipts, except that with the written consent of the Director, or his representative, upon a showing by such warehouseman that it is not practicable to provide such fireproof safe, vault, or compartment, he may keep such records, books, and papers in some other place of safety approved by the Director or his representative. All canceled receipts shall be arranged by the warehouseman in numerical order as soon as possible after their cancellation and shall be preserved in numerical order thereafter.

106.31 Warehouse charges.—A warehouseman shall not make any unreasonable or exorbitant charge for services rendered. Before a license to conduct a warehouse is granted under the act, the warehouseman shall file with the Office a dated copy of his rules and schedule of charges to be made by him if licensed. Before making any change in such rules or schedule of charges he shall file with the Office a statement in writing showing the proposed change and the reasons therefor. Each warehouseman shall keep exposed conspicuously in the place prescribed by section 106.6, and at such other places, accessible to the public, as the Director or his representative may from time to time designate, a copy of his current rules and schedule of charges.

106.32 Business hours.—(a) Each warehouse shall be kept open for the purpose of receiving beans for storage and delivering beans out of storage every business day for a period of not less than six hours between the hours of 8 a. m. and 6 p. m., except as provided in paragraph (b) of this section. The warehouseman shall keep conspicuously posted on the door of the public entrance to his office and to his warehouse a notice showing the hours during which the warehouse will be kept open, except when such office or warehouse is kept open continuously from 8 a. m. to 6 p. m.

(b) If the warehouse is not to be kept open as above required, the notice shall state the period during which it is to be closed and the name and address of an accessible person authorized to make delivery upon lawful demand and surrender of the receipt.

106.33 Tagging identity-preserved beans.—Each warehouseman shall, upon acceptance for storage of any lot of sacked beans or of bulk beans to be specially binned, attach to such lot or bin an identification tag of good quality, or stencil a sufficient number of sacks in the lot in such manner as will readily make possible the identification of the lot at all times. Such tags shall show the lot number, the number of the receipt issued to cover such beans, the number of sacks in the lot, the variety or type of the beans, their grade, if determined, their net weight when they entered storage, and the date they entered storage.

106.34 Arrangement and tagging of stored beans.—Each warehouseman shall so store each lot of beans for which a receipt under the act has been issued that the tag or stencil identification marks thereon, required in section 106.33 of these regulations, are visible and readily accessible, and shall arrange all bags in his warehouse so as to permit making a determination of the number of bags in storage at any time.

106.35 Nonidentity-preserved beans; grading; weighing.—All beans the identity of which is not to be preserved or has not been preserved shall be accepted for and delivered out of storage only on the basis of grades and weights determined by licensed inspectors and weighers.

106.36 Delivery of beans from storage.—Except as may be provided by law or these regulations, each warehouseman, (a) upon proper presentation of a receipt for any beans, other than bulk beans specially binned, and upon payment or tender of all advances and legal charges, shall deliver to such

depositor or lawful holder of such receipt, beans of the grade and quantity specified in such receipt, after making due allowance for such shrinkage as the receipt stipulates, or (b) upon proper presentation of a receipt for any beans the identity of which was to have been preserved during the storage period, and upon payment or tender of all advances and legal charges, shall deliver to the person lawfully entitled thereto the identical beans stored in his warehouse.

106.37 System of accounts.—Each warehouseman shall use for his warehouse a system of accounts, approved for the purpose by the Director, or his authorized representative, which shall show for each bag or lot of beans the name of the depositor, the weight of the beans, the number of bags in each lot, the grade when grade is required to be, or is ascertained, the location in the warehouse, the dates received for and delivered out of storage, the receipts issued and canceled, a separate record for each depositor; and such accounts shall include a detailed record of all moneys received and disbursed and of all effective insurance policies. In the case of beans the identity of which is to be preserved the tag number or stencil identification mark mentioned in section 106.33 shall be shown.

106.38 Reports.—Each warehouseman shall, from time to time, make such reports as the Office may require, on forms prescribed and furnished for the purpose by the Office, concerning the condition, contents, operation, and business of the warehouse.

106.39 Copies of reports to be kept.—Each warehouseman shall keep on file, as a part of the records of the warehouse, for such period as may be prescribed by the Office, an exact copy of each report submitted by such warehouseman under these regulations.

106.40 Canceled receipts; auditing.—Each warehouseman, when requested by the Office, shall forward his canceled receipts for auditing to Washington or to such field offices of the Office of Marketing Services as may be designated from time to time. For the purpose of this section, only such portion as the Office may designate of each canceled receipt, numbered to correspond with the actual receipt number, need be submitted.

106.41 Inspection and examination of warehouses.—Each warehouseman shall permit any officer or agent of the Department, authorized by the Secretary for the purpose, to enter and inspect or examine at any time any warehouse for the conduct of which such warehouseman holds a license, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof, and shall furnish such officer or agent, when he so requests, the assistance necessary to enable him to make any inspection or examination under this section.

106.42 Weighing apparatus; inspection.—The weighing apparatus used for ascertaining the weight stated in a receipt or certificate shall be subject to examination by an officer or agent of the Department employed for such purpose. If the Office shall disapprove such weighing apparatus, it shall not thereafter, unless such disapproval be withdrawn, be used in ascertaining the weight of any beans for the purposes of the act and these regulations.

106.43 Warehouse to be kept clean.—Each warehouseman shall keep his warehouse clean and free from trash, excessive dirt, rubbish, and scattered beans. He shall also exercise every precaution to keep his warehouse free of rats or other pests that might cause damage or injury to beans in storage. The warehouseman shall not, under any circumstances, accept for storage in his warehouse beans showing the presence of weevil or the larvae of weevil, nor continue to keep in storage beans so affected, without treating them in such manner as will destroy such weevil and larvae or with such chemicals as may be approved by the Office for that purpose.

106.44 Fumigation of warehouse.—When necessary, in the opinion of the Director or his representative, the warehouseman shall fumigate thoroughly his warehouse with chemicals approved by the office.

106.45 Damp, dirty, frosted beans; no storage.—A warehouseman shall not, under any circumstances, accept for storage any beans with moisture content in excess of 17 percent and which contain foreign material likely to injure the keeping qualities of the beans or adversely affect their commercial value, or that are otherwise of a condition rendering them unsuitable for storage, but he may accept such beans for conditioning purposes and for storage after conditioning.

106.46 Care in storage of beans.—A warehouseman shall so handle and so store beans as not to injure or damage them in any manner.

106.47 Reconditioning deteriorated beans.—If the warehouseman considers that any beans in his warehouse are out of condition, or becoming so, he shall direct the licensed inspector to examine the beans in question, and, if such inspector finds such beans to be out of condition or becoming so, and he is of the opinion that such beans can be brought back into condition by mechanical or other means, or that further deterioration can be prevented, the warehouseman shall give immediate notice of the facts to the persons and in the manner specified in section 106.48, paragraphs (b) and (c). If, within 24 hours after the giving of such notice, the owners of such beans have not otherwise directed as to the disposition of same, such warehouseman, with the approval of the licensed inspector, shall subject the beans to the proper reconditioning process in his licensed warehouse to the extent to which it is equipped with machinery suitable for the purpose, otherwise in any other warehouse so equipped.

106.48 Procedure in handling deteriorated beans.—(a) If a warehouseman, with the approval of the licensed inspector, shall determine that any beans are deteriorating and that such deterioration cannot be stopped, he shall give immediate notice thereof in accordance with paragraphs (b) and (c) of this section.

(b) Such notice shall state (1) the name of the warehouse in which the beans are stored, (2) the quantity, kind, and grade of the beans at the time the notice is given, (3) the actual condition of the beans as nearly as can be ascertained, and the reason, if known, for such condition, and (4) the outstanding receipts covering the beans out of condition, giving the number and date of each such receipt and the quantity, the kind and grade of the beans as stated in each such receipt.

(c) A copy of such notice shall be delivered in person or shall be sent by mail (1) to the persons holding the receipts if known to the warehouseman, (2) to the person who originally deposited the beans, (3) to any other persons known by the licensed warehouseman to be interested in the beans, (4) to the Director, and (5) public notice shall also be given by posting a copy of such notice at the place where the warehouseman is required to post his license. If the holders of the receipts and the owners of the beans are known to the warehouseman and cannot, in the regular course of the mails, be reached within 12 hours, the warehouseman shall, whether or not requested to do so, also immediately notify such persons by telegraph or telephone at their expense.

(d) Any person interested in any beans or the receipt covering such beans stored in a licensed warehouse may notify the warehouseman of his interest in writing, and such warehouseman shall keep a record of that fact. If such person requests in writing that he be notified regarding the condition of any such beans and agrees to pay the cost of any telegraph or telephone toll charge, such warehouseman shall notify such person in accordance with such request.

(e) If the beans advertised in accordance with the requirements of this section have not been removed from storage by the owner thereof within seven days from the date of notice of their being out of condition, the warehouseman may sell the same at public auction at the expense and for the account of the owner, after giving seven days' notice of such proposed sale in the manner specified in paragraphs (b) and (c) of this section.

(f) Nothing contained in this section shall be construed as relieving the warehouseman from properly caring for any beans after sending notification of their condition in accordance with this section.

106.49 Excess storage.—If at any time a warehouseman shall be offered for storage in his warehouse, beans in excess of the licensed capacity as shown on his license, he shall not accept such beans until he has first secured authority through an amended license, and after such authority has been granted, the warehouseman shall continue to so arrange the beans as not to obstruct free access thereto and the proper use of sprinklers or other fire protection equipment provided for such warehouse.

106.50 Removal of beans from storage.—Except as may be permitted by law or these regulations, a warehouseman shall not remove any beans from the warehouse or the part thereof designated in the receipt, unless such receipt is first surrendered and canceled. Under no circumstances, unless it

becomes absolutely necessary to protect the interests of holders of receipts, shall beans be removed from the warehouse before the surrender of receipts, and immediately upon any such removal the warehouseman shall notify the Director of such removal and the necessity therefor.

106.51 Signatures of persons signing receipts.—Each warehouseman shall file with the Department the name and genuine signature of each person authorized to sign warehouse receipts for the licensed warehouseman, and shall promptly notify the Department of any changes as to persons authorized to sign, and shall file signatures of such persons.

106.52 Signs of tenancy; posting.—(a) Every warehouseman operating a "field" or "custodian" warehouse shall, during the life of his license, display and maintain appropriate signs on the licensed warehouse, both on the inside and on the exterior walls of the warehouse, and particularly on doors and usual places of entry, in such a manner as will ordinarily be calculated to give the public correct notice of his tenancy of all buildings or parts thereof included in his license.

(b) Such signs shall be of such size and design as to readily attract the attention of the public and shall include the following: (1) the name and license number of the licensee; (2) the name of the warehouse; (3) whether the warehouseman is owner or lessee; and (4) the words "public warehouse."

(c) Such other wording or lettering may appear in the sign or signs, not inconsistent with the purpose of the act and these regulations, as may be approved by the Director.

(d) Immediately upon its expiration or suspension or revocation all reference to the license shall be removed from the warehouse.

(e) No sign indicating control, tenancy, or ownership of a licensed warehouse by any person other than the licensee shall appear on any such warehouse.

106.53 Fire loss to be reported by wire.—If at any time a fire shall occur at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately by telegram to the Director the occurrence of such fire and the extent of damage.

106.54 Copies of certificates to be filed with warehouseman.—When an inspection or weight certificate has been issued by a licensed inspector or weigher, a copy of such certificate shall be filed with the warehouseman in whose warehouse the beans covered by such certificate are stored, and such certificate shall become a part of the records of the warehouseman.

FEES

106.55 Warehouse license fees.—There shall be charged, assessed, and collected a fee of \$10 for each warehouseman's license or any amendment thereto, and a fee of \$3 for each license issued to an inspector or weigher.

106.56 Warehouse inspection fees.—There shall be charged, assessed, and collected for each original examination or inspection of a warehouse under the act, when such examination or inspection is made upon application by a warehouseman, a fee at the rate of \$1 for each 1,000 hundredweight of the storage capacity, or fraction thereof, determined in accordance with section 106.12 (a), but in no case less than \$10 nor more than \$200, and, for each re-examination or reinspection applied for by such warehouseman, a fee based on the extent of the reexamination or reinspection, proportioned to, but not greater than that prescribed for the original examination or inspection.

106.57 Advance deposit.—Before any warehouseman's license, or amendment thereto, is granted, or before a reexamination or reinspection applied for by a warehouseman is made, the warehouseman shall deposit with the Office the amount of the fee prescribed therefor. Such deposit shall be made in the form of a check, certified if required by the Office, or post office or express money order, payable to the order of "Treasurer of the United States."

106.58 Return of excess deposit.—Advance deposits made under these regulations shall be forwarded to the Treasurer of the United States for holding until the fee, if any, is assessed and he is furnished by the Office with a statement showing the amount thereof and against whom assessed. Any part of such advance deposit which is not required for the payment of any fee assessed shall be returned to the party depositing the same.

LICENSED INSPECTORS AND WEIGHERS

106.59 Inspector's and weigher's application.—(a) Applications for licenses to inspect and grade or to weigh beans under the act shall be made to the Director on forms furnished for the purpose by him.

(b) Each such application shall be in English, shall be signed by the applicant, shall be verified by him under oath or affirmation administered by a duly authorized officer, and shall contain or be accompanied by (1) satisfactory evidence that he has passed his twenty-first birthday, (2) the name and location of a warehouse or warehouses licensed, or for which application for license has been made, under the act, in which beans sought to be inspected and weighed under such license are or may be stored, (3) a statement from the warehouseman conducting such warehouse showing whether the applicant is competent and is acceptable to such warehouseman for the purpose, (4) satisfactory evidence that he has had at least one year's experience in the kind of service for which a license is sought or the equivalent of such experience, and that he is competent to perform such services, except in the case of applicants for weighers' licenses one month's experience will be sufficient, (5) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as the same may relate to him, and (6) such other information as the Office may deem necessary: *Provided*, That when an application for a license to inspect beans is filed by a person who does not intend to inspect for any particular licensed warehouseman but who does intend to inspect beans stored or to be stored in a licensed warehouse and to issue inspectors' certificates therefor, as provided for by the act and these regulations, independent of the warehouse receipts issued to cover such beans, it shall not be necessary to furnish such statement as is required by subdivision (3) of this paragraph.

(c) The applicant shall at any time furnish such additional information as the Secretary, or his designated representative, shall find to be necessary to the consideration of his application.

(d) A single application may be made by any person for a license to inspect and to weigh upon complying with all the requirements of this section.

106.60 Examination of applicant.—Each applicant for a license as an inspector or as a weigher and each licensed inspector or licensed weigher shall, whenever requested by an authorized agent of the Department designated by the Director for the purpose, submit to an examination or test to show his ability properly to perform the duties for which he is applying for license or for which he has been licensed.

106.61 Posting of license.—Each licensed inspector shall keep his license conspicuously posted in the office where all or most of the inspecting is done, and each licensed weigher shall keep his license conspicuously posted in the warehouse office or in such place as may be designated for the purpose by the Office.

106.62 Duties of licensees.—Each inspector and each weigher, when requested, shall, without discrimination, as soon as practicable, and upon reasonable terms, inspect or weigh and certificate the condition, grade, or weight for storage of beans stored or to be stored in a licensed warehouse, if such beans be offered to him under such conditions as permit proper inspection and the determination of the condition, grade, or weight thereof, as the case may be. Each such licensee shall give preference to persons who request his services as such over persons who request his services in any other capacity. No inspection or weight certificate shall be issued under the act for beans not stored or not to be stored in a licensed warehouse.

106.63 Inspection certificate; form.—Each inspection certificate issued under the act by a licensed inspector shall be in a form approved for the purpose by the Office and shall embody within its written or printed terms (a) the caption "United States Warehouse Act, Bean Inspection Certificate," (b) whether it is an original, a duplicate, or other copy, (c) the name and location of the warehouse in which the beans are or are to be stored, (d) the date of the certificate, (e) the location of the beans at the time of inspection, (f) the identification number or mark of each lot of beans, the identity of which is or is to be preserved, given in accordance with section 106.33, (g) the grade, dockage, or pick and condition of the beans for storage at the time of inspection, (h) a statement that the certificate is issued by a licensed inspector, under the United States warehouse act and regulations thereunder,

(i) a blank space designated for the purpose in which may be stated any general remarks on the condition of the beans, (j) the signature of such licensed inspector. In addition, the inspection certificate may include any other matter not inconsistent with the act or these regulations, *Provided*, The approval of the Office is first secured.

106.64 Weight certificate; form.—Each weight certificate issued under the act by a licensed weigher shall be in a form approved for the purpose by the Office, and shall embody within its written or printed terms (a) the caption "United States Warehouse Act, Bean Weight Certificate," (b) whether it is an original, a duplicate, or other copy, (c) the name and location of the warehouse in which the beans are to be stored, (d) the date of the certificate, (e) the location of the beans at the time of weighing, (f) the identification number or mark of each lot of beans, the identity of which is or is to be preserved, given in accordance with section 106.33, (g) the net weight of the beans, (h) a statement that the certificate is issued by a licensed weigher under the United States warehouse act and the regulations thereunder, and (i) the signature of such licensed weigher. In addition, the weight certificate may include any other matter not inconsistent with the act or these regulations, *Provided*, The approval of the Office is first secured.

106.65 Combined inspection and weight certificate.—The weight, grade, and condition of any beans ascertained by a licensed inspector or a licensed weigher may be stated on a certificate meeting the combined requirements of sections 106.63 and 106.64, if the form of such certificate shall have been approved for the purpose by the Office.

106.66 Copies of certificates to be kept.—Each licensed inspector and each licensed weigher shall keep for a period of one year in a place accessible to persons financially interested in the beans a copy of each certificate issued by him under these regulations and shall file a copy of each such certificate with the warehouse in which the beans covered by the certificate are stored.

106.67 Licensees to permit and assist in examination.—Each licensed inspector and each licensed weigher shall permit any officer or agent of the Department authorized by the Secretary or his designated representative for the purpose to inspect or examine at any time, his books, papers, records, and accounts relating to the performance of his duties under the act and these regulations, and shall, with the consent of the warehouseman concerned, assist any such officer or agent in the inspection or examination of records mentioned in section 106.37 as far as any such inspection or examination relates to the performance of the duties of such licensed inspector or licensed weigher under the act and these regulations.

106.68 Reports.—Each licensed inspector and each licensed weigher shall, from time to time, when requested by the Office, make reports on forms furnished for the purpose by the Office, bearing upon his activities as such licensed inspector or licensed weigher.

106.69 Licenses; suspension or revocation.—Pending investigation, the Secretary, or his designated representative, may, whenever he deems necessary, suspend the license of an inspector or of a weigher temporarily without hearing. Upon a written request and a satisfactory statement of reasons therefor, submitted by the inspector or weigher, or when the inspector or weigher has ceased to perform such services at the warehouse, the Secretary, or his designated representative, may, without hearing, suspend or revoke the license issued to such inspector or weigher. The Secretary, or his designated representative, may, after opportunity for hearing, when possible, has been afforded in the manner prescribed in this section, suspend or revoke a license issued to an inspector or a weigher when such inspector or weigher has in any manner become incompetent or incapacitated to perform the duties of a licensed inspector or licensed weigher. As soon as it shall come to the attention of a warehouseman that any of the conditions mentioned in this section exist, it shall be his duty to notify the Office in writing. Before the license of any inspector or weigher is suspended or revoked pursuant to section 12 of the act, a notice in writing specifying the charges shall be served by the Secretary or his designated representative upon the licensee involved. Within 20 days after receipt of the statement of charges the licensee may file with the Secretary, or his designated representative, an answer in writing which may include affidavits or other instruments evidentiary in nature, and a request for an oral hearing, opportunity for which shall be

afforded in accordance with section 106.80. Failure by the licensee to request an oral hearing within the time allowed for the filing of an answer shall constitute a waiver of such hearing, and any licensee so failing to request a hearing will be deemed to have agreed that the Secretary, or his designated representative, may, upon the basis of the information before him, take such action as he deems warranted, including the holding of an oral hearing or the final disposition without such hearing of the matter by issuance of such final order as he may deem appropriate.

106.70 Suspended or revoked license; return; termination of license.—(a) If a license issued to an inspector or to a weigher is suspended or revoked, by the Secretary, or by his designated representative, it shall be returned to the Secretary. At the expiration of any period of suspension of a license, unless in the meantime it be revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the inspector or weigher to whom it was originally issued, and it shall be posted as prescribed in section 106.61.

(b) Any license issued to an inspector or weigher shall automatically be suspended or terminated as to any warehouse whenever the license of such warehouse shall be suspended or revoked. Thereupon the license of such inspector or weigher shall be returned to the Secretary. If such license is applicable to warehouses other than those for which the licenses have been suspended or revoked, the Secretary, or his designated representative, shall issue a new license to the inspector or weigher, omitting the names of the warehouses for which licenses have been so suspended or revoked. Such new licenses shall be posted as prescribed in section 106.61.

106.71 Lost or destroyed licenses.—Upon satisfactory proof of the loss or destruction of a license issued to an inspector or weigher, a duplicate thereof or a new license may be issued under the same or a new number.

106.72 Unlicensed inspector or weigher; misrepresentation.—No person shall in any way represent himself to be an inspector or weigher licensed under the act unless he holds an unsuspended and unrevoked license issued under the act.

BEAN INSPECTION AND CLASSIFICATION

106.73 Statement of classification.—Whenever the variety, grade, or condition of beans is required to be or is stated for the purposes of this act and these regulations, it shall be stated in accordance with sections 106.74 and 106.75.

106.74 Standards to be used.—The official bean standards of the United States are hereby adopted as the official beans standards for the purposes of the act and regulations.

106.75 Statement of variety, grade, condition.—Whenever the variety, grade or condition of beans is stated for the purpose of this act and these regulations, the terms used shall be correctly applied and shall be so stated as not to convey a false impression of the beans. In case of doubt as to the variety, grade or condition of a given lot of beans, a determination shall be made of such facts by drawing samples fairly representative of the contents of the lot of beans offered for storage. These samples shall be thoroughly mixed, and after being so mixed, from this mixture by quartering a sufficient quantity shall be taken which shall constitute the sample for the purpose of determining the grade.

APPEAL OF GRADES

106.76 Conditions and procedure of appeal.—(a) If a question arises as to whether the variety, grade or condition of the beans was correctly stated in a receipt or inspection certificate issued under the act or these regulations, the warehouseman concerned or any person financially interested in the beans involved may, after reasonable notice to the other party, submit the question to such representatives of the Office as the Director may appoint. The decision of such representatives shall be final, unless the Director shall direct a review of the question. Immediately upon making their decision, these representatives shall issue a certificate embodying their findings to the appellants and the licensee or licensees involved.

(b) If the decision of the representatives of the Office be that the variety,

grade, or condition was not correctly stated, the receipt or certificate involved shall be returned to and canceled by the licensee who issued it, and the licensee shall issue in lieu thereof a new receipt or certificate embodying therein the statement of variety, grade, or condition, in accordance with the findings of the aforesaid representatives.

(c) All necessary and reasonable expense of such arbitration shall be borne by the losing party, unless the Director or his representative shall decide that the expense should be prorated between the parties.

MISCELLANEOUS

106.77 Bonds required.—Every person applying for a license, or licensed under section 9 of the act, shall as such, be subject to all portions of these regulations except section 106.5, so far as they may relate to warehousemen. If there is a law of any State providing for a system of warehouses owned, operated, or leased by such State, a person applying for a license under section 9 of the act, to accept the custody of beans and to store the same in any of said warehouses, may, in lieu of a bond or bonds complying with sections 106.11–106.12, file with the Secretary a single bond meeting the requirements of the act and these regulations, in such form and in such amount not less than \$5,000 as he shall prescribe, to insure the performance by such person, with respect to the acceptance of the custody of beans and their storage in the warehouses in such system for which licenses are or may be issued, of his obligations arising during the periods of such licenses, or amendments thereto. In fixing the amount of such bond, consideration shall be given, among other appropriate factors, to the character of the warehouses involved, their actual or contemplated capacity, the bonding requirements of the State, and its liability with respect to such warehouses. If the Secretary, or his designated representative, shall find the existence of conditions warranting such action, there shall be added to the amount of the bond so fixed a further amount, fixed by him, to meet such conditions.

106.78 Publications.—Publications under the act and these regulations shall be made in such media as the Director may from time to time designate.

106.79 Information of violations.—Every person licensed under the act shall immediately furnish the Office any information which comes to the knowledge of such person tending to show that any provision of the act or these regulations has been violated.

106.80 Procedure in hearings.—(a) If requested by a licensee in his answer, or otherwise ordered by the Secretary or his designated representative, a hearing, of which reasonable notice shall be given, shall be held at the time and place fixed by the Secretary or his designated representative. The hearing shall be conducted by a presiding officer designated by the Solicitor or his representative from among those persons authorized by the Secretary to hold hearings. In any proceeding under this section, the parties may appear in person or by counsel or other representative. The non-appearance of the licensee at the time and place set for hearing shall be deemed the waiver of the right to an oral hearing. In the event that the licensee fails to appear at the hearing, the person appearing on behalf of the Secretary or his designated representative shall have an election whether to present his evidence, in whole or in part, in the form of affidavits, or by oral testimony before the presiding officer. The licensee failing to appear shall be deemed to have waived his right to participate in such hearing and shall be deemed to have consented to such disposition of the proceeding as the Secretary shall deem proper upon the basis of information before him or such record as shall be made at any such hearing.

(b) No written transcript of the hearing is required unless requested on behalf of the Secretary or the licensee. No transcript shall be made or considered part of the record until approved or certified by the presiding officer. In the absence of a written transcript, the presiding officer shall prepare a written summary of the relevant evidence received at the hearing. Testimony of the witnesses at the hearing shall be upon oath or affirmation and subject to cross-examination. The rules of evidence prevailing in courts of law shall not be controlling. The test of admissibility shall be the reliability, relevancy, and probative force of the evidence offered. Affidavits may be received in the discretion of the presiding officer if otherwise admissible.

Upon the written application of a party to the proceeding, the presiding officer, at any time, may, after reasonable notice to the parties to the proceeding, order the taking of testimony by deposition. The deposition shall be taken before the presiding officer or before an officer authorized by the law of the United States or the law of the place of the examination to administer oaths, or before a person authorized by the Secretary to administer oaths. Every written entry in the records of the Department made by an officer or employee thereof in the course of his official duty which is relevant to the issue involved in a hearing shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. The hearing may be adjourned by the presiding officer from time to time. At the close of the hearing the presiding officer may allow a short period for the presentation of oral argument and for a summary of the facts disclosed at the hearing, and shall allow briefs to be filed within a period prescribed by him.

(c) The presiding officer, within a reasonable time after the hearing, shall prepare, upon the basis of the evidence received at the hearing, and shall file with the Secretary or his designated representative his report including summary of oral evidence, if any, proposed findings of fact, conclusions, and a recommended order. A copy of the presiding officer's report shall be served upon each of the parties to the hearing. Within 15 days after receipt of the summary of oral evidence, if any, and of the presiding officer's report, exceptions thereto and briefs in support thereof may be filed by the parties with the presiding officer. Upon receipt of exceptions to the presiding officer's report, the presiding officer may make such revisions in his report in the light thereof as he shall deem advisable. Thereafter, the presiding officer shall certify to the Secretary or his designated representative the record of the proceeding which shall contain the initiating notice, licensee's answer, if any, the notice of hearing, the certifications of service, the evidence received at the hearing, either stenographically transcribed or summarized by the presiding officer, including exhibits, stipulations, or other documents which have been received by the presiding officer, the presiding officer's report and such briefs and exceptions to the presiding officer's report as may have been filed in connection with the hearing. The Secretary or his designated representative, upon the receipt of the record of the hearing, may issue an order as recommended by the presiding officer or may prepare and issue such other order as may be required to effectuate the disposition of the proceeding in the manner determined by him. A final order shall be served by the Secretary or his designated representative upon the licensee concerned. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

106.81 One document and one license to cover several products.—A license may be issued for the storage of two or more agricultural products in a single warehouse. Where such a license is desired, a single application, inspection, bond, record, report, or other paper, document or proceeding relating to such warehouse, shall be sufficient unless otherwise directed by the Director.

106.82 Bond for combination warehouse.—Where such license is desired, the amount of the bond, net assets, and inspection and license fees shall be determined by the Director in accordance with the regulations applicable to the particular agricultural product which would require the largest bond and the greatest amount of net assets and of fees if the full capacity of the warehouse were used for its storage.

106.83 Amendments.—Any amendment to, or revision of, these regulations, unless otherwise stated therein, shall apply in the same manner to persons holding licenses at the time it becomes effective as it applies to persons thereafter licensed under the act.

Issued at Washington, D. C., this 2d day of May 1945.

ASHLEY SELLERS,
Assistant War Food Administrator.

UNITED STATES WAREHOUSE ACT

[39 United States Statutes at Large, page 486, as amended July 25, 1919, February 23, 1923, and March 2, 1931.]

That this Act shall be known by the short title of "United States warehouse Act."

Sec. 2. That the term "warehouse" as used in this Act shall be deemed to mean every building, structure, or other protected inclosure in which any agricultural product is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which any agricultural product is or may be stored. As used in this Act, "person" includes a corporation or partnership or two or more persons having a joint or common interest; "warehouseman" means a person lawfully engaged in the business of storing agricultural products; and "receipt" means a warehouse receipt.

Sec. 3. That the Secretary of Agriculture is authorized to investigate the storage, warehousing, classifying according to grade and otherwise, weighing, and certification of agricultural products; upon application to him by any person applying for license to conduct a warehouse under this Act, to inspect such warehouse or cause it to be inspected; at any time, with or without application to him, to inspect or cause to be inspected all warehouses licensed under this Act; to determine whether warehouses for which licenses are applied for or have been issued under this Act are suitable for the proper storage of any agricultural product or products; to classify warehouses licensed or applying for a license in accordance with their ownership, location, surroundings, capacity, conditions, and other qualities, and as to the kinds of licenses issued or that may be issued for them pursuant to this Act; and to prescribe, within the limitations of this Act, the duties of the warehousemen conducting warehouses licensed under this Act with respect to their care of and responsibility for agricultural products stored therein.

Sec. 4. That the Secretary of Agriculture, or his designated representative, is authorized, upon application to him, to issue to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this Act and such rules and regulations as may be made hereunder: *Provided*, That each such warehouse be found suitable for the proper storage of the particular agricultural product or products for which a license is applied for, and that such warehouseman agree, as a condition to the granting of the license, to comply with and abide by all the terms of this Act and the rules and regulations prescribed hereunder.

Sec. 5. That each license issued under Sections 4 and 9 of this Act shall terminate as therein provided, or in accordance with the terms of this Act and the regulations thereunder, and may from time to time be modified or extended by a written instrument.

Sec. 6. That each warehouseman applying for a license to conduct a warehouse in accordance with this Act shall, as a condition to the granting thereof, execute and file with the Secretary of Agriculture a good and sufficient bond to the United States to secure the faithful performance of his obligations as a warehouseman under the terms of this Act and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State, District, or Territory in which the warehouse is located, and shall contain such terms and conditions as the Secretary of Agriculture may prescribe to carry out the purposes of this Act, and may, in the discretion of the Secretary of Agriculture, include the requirements of fire and/or other insurance. Whenever the Secretary of Agriculture, or his designated representative, shall determine that a previously approved bond is, or for any cause has become, insufficient, he

may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked.

Sec. 7. That any person injured by the breach of any obligation to secure which a bond is given, under the provisions of Sections 6 or 9, shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

Sec. 8. That upon the filing with and approval by the Secretary of Agriculture, or his designated representative, of a bond, in compliance with this Act, for the conduct of a warehouse, such warehouse may be designated as bonded hereunder; but no warehouse shall be designated as bonded under this Act, and no name or description conveying the impression that it is so bonded shall be used until a bond, such as provided for in Section 6, has been filed with and approved by the Secretary of Agriculture, or his designated representative, nor unless the license issued under this Act for the conduct of such warehouse remains unsuspended and unrevoked.

Sec. 9. That the Secretary of Agriculture, or his designated representative, may, under such rules and regulations as he shall prescribe, issue a license to any person not a warehouseman to accept the custody of agricultural products, and to store the same in a warehouse or warehouses owned, operated, or leased by any State, upon condition that such person agree to comply with and abide by the terms of this Act and the rules and regulations prescribed hereunder. Each person so licensed shall issue receipts for the agricultural products placed in his custody, and shall give bond, in accordance with the provisions of this Act, and the rules and regulations hereunder affecting warehousemen licensed under this Act, and shall otherwise be subject to this Act, and such rules and regulations, to the same extent as is provided for warehousemen licensed hereunder.

Sec. 10. That the Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee for every examination or inspection of a warehouse under this Act when such examination or inspection is made upon application of a warehouseman, and for each license issued to a warehouseman or to any person to classify, inspect, grade, sample, and/or weigh agricultural products stored or to be stored under the provisions of this Act, the Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee. All such fees shall be deposited and covered into the Treasury as miscellaneous receipts.

Sec. 11. That the Secretary of Agriculture, or his designated representative, may upon presentation of satisfactory proof of competency, issue to any person a license to inspect, sample, or classify any agricultural product or products, stored or to be stored in a warehouse licensed under this Act, according to condition, grade, or otherwise and to certificate the condition, grade, or other class thereof, or to weigh the same and certificate the weight thereof, or both to inspect, sample, or classify and weigh the same and to certificate the condition, grade, or other class and the weight thereof, upon condition that such person agree to comply with and abide by the terms of this Act and of the rules and regulations prescribed hereunder so far as the same relate to him.

Sec. 12. That any license issued to any person to inspect, sample, or classify, or to weigh any agricultural product or products under this Act may be suspended or revoked by the Secretary of Agriculture, or his designated representative, whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to inspect, sample, or classify, or to weigh any agricultural product or products correctly, or has violated any of the provisions of this Act or of the rules and regulations prescribed hereunder, so far as the same may relate to him, or that he has used his license or allowed it to be used for any improper purpose whatever. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

Sec. 13. That every warehouseman conducting a warehouse licensed under this Act shall receive for storage therein, so far as its capacity permits, any agricultural product of the kind customarily stored therein by him which

may be tendered to him in a suitable condition for warehousing, in the usual manner in the ordinary and usual course of business, without making any discrimination between persons desiring to avail themselves of warehouse facilities.

Sec. 14. That any person who deposits agricultural products for storage in a warehouse licensed under this Act shall be deemed to have deposited the same subject to the terms of this Act and the rules and regulations prescribed hereunder.

Sec. 15. That any fungible agricultural product stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act shall be inspected and graded by a person duly licensed to grade the same under this Act.

Sec. 16. That every warehouseman conducting a warehouse licensed under this Act shall keep the agricultural products therein of one depositor so far separate from agricultural products of other depositors, and from other agricultural products of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the agricultural products deposited; but if authorized by agreement or by custom, a warehouseman may mingle fungible agricultural products with other agricultural products of the same kind and grade, and shall be severally liable to each depositor for the care and redelivery of his share of such mass, to the same extent and under the same circumstances as if the agricultural products had been kept separate, but he shall at no time while they are in his custody mix fungible agricultural products of different grades.

Sec. 17. That for all agricultural products stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act original receipts shall be issued by the warehouseman conducting the same, but no receipts shall be issued except for agricultural products actually stored in the warehouse at the time of the issuance thereof.

Sec. 18. That every receipt issued for agricultural products stored in a warehouse licensed under this Act shall embody within its written or printed terms (a) the location of the warehouse in which the agricultural products are stored; (b) the date of issue of the receipt; (c) the consecutive number of the receipt; (d) a statement whether the agricultural products received will be delivered to the bearer, to a specified person, or to a specified person or his order; (e) the rate of storage charges; (f) a description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages; (g) the grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: *Provided*, That such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated under authority of law: *Provided further*, That until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the Secretary of Agriculture; (h) a statement that the receipt is issued subject to the United States warehouse Act and the rules and regulations prescribed thereunder; (i) if the receipt be issued for agricultural products of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; (j) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien: *Provided*, That if the precise amount of such advances made or of such liabilities incurred be at the time of the issue of the receipt unknown to the warehouseman or his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof shall be sufficient; (k) such other terms and conditions within the limitations of this Act as may be required by the Secretary of Agriculture; and (l) the signature of the warehouseman, which may be made by his authorized agent: *Provided*, That unless otherwise required by the law of the State in which the warehouse is located, when requested by a

depositor of other than fungible agricultural products, a receipt omitting compliance with subdivision (g) of this section may be issued: *Provided, however,* The Secretary of Agriculture may in his discretion require that such receipt have plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable.

Sec. 19. That the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards for agricultural products by which their quality or value may be judged or determined: *Provided,* That the standards for any agricultural products which have been, or which in future may be, established by or under authority of any other Act of Congress shall be, and are hereby, adopted for the purposes of this Act as the official standards of the United States for the agricultural products to which they relate.

Sec. 20. That while an original receipt issued under this Act is outstanding and uncanceled by the warehouseman issuing the same no other or further receipt shall be issued for the agricultural product covered thereby or for any part thereof, except that in the case of a lost or destroyed receipt a new receipt, upon the same terms and subject to the same conditions and bearing on its face the number and date of the receipt in lieu of which it is issued, may be issued upon compliance with the statutes of the United States applicable thereto in places under the exclusive jurisdiction of the United States or upon compliance with the laws of any State applicable thereto in any place not under the exclusive jurisdiction of the United States: *Provided,* That if there be in such case no statute of the United States or law of a State applicable thereto such new receipts may be issued upon the giving of satisfactory security in compliance with the rules and regulations made pursuant to this Act.

Sec. 21. That a warehouseman conducting a warehouse licensed under this Act, in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored therein upon a demand made either by the holder of a receipt for such agricultural products or by the depositor thereof if such demand be accompanied with (a) an offer to satisfy the warehouseman's lien; (b) an offer to surrender the receipt, if negotiable, with such indorsements as would be necessary for the negotiation of the receipts; and (c) a readiness and willingness to sign, when the products are delivered, an acknowledgment that they have been delivered if such signature is requested by the warehouseman.

Sec. 22. That a warehouseman conducting a warehouse licensed under this Act shall plainly cancel upon the face thereof each receipt returned to him upon the delivery by him of the agricultural products for which the receipt was issued.

Sec. 23. That every warehouseman conducting a warehouse licensed under this Act shall keep in a place of safety complete and correct records of all agricultural products stored therein and withdrawn therefrom, of all warehouse receipts issued by him, and of the receipts returned to and canceled by him, shall make reports to the Secretary of Agriculture concerning such warehouse and the condition, contents, operation, and business thereof in such form and at such times as he may require, and shall conduct said warehouse in all other respects in compliance with this Act and the rules and regulations made hereunder.

Sec. 24. That the Secretary of Agriculture is authorized to cause examinations to be made of any agricultural product stored in any warehouse licensed under this Act. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this Act and the rules and regulations made hereunder, the Secretary may publish his findings.

Sec. 25. That the Secretary of Agriculture, or his designated representative, may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license to any warehouseman conducting a warehouse under this Act, for any violation of or failure to comply with any provision of this Act or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

Sec. 26. That the Secretary of Agriculture from time to time may publish the results of any investigations made under Section 3 of this Act; and he shall publish the names and locations of warehouses licensed and bonded and the names and addresses of persons licensed under this Act and lists of all licenses terminated under this Act and the causes therefor.

Sec. 27. That the Secretary of Agriculture is authorized through officials, employees, or agents of the Department of Agriculture designated by him to examine all books, records, papers, and accounts of warehouses licensed under this Act and of the warehousemen conducting such warehouses relating thereto.

Sec. 28. That the Secretary of Agriculture shall from time to time make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this Act.

Sec. 29. That in the discretion of the Secretary of Agriculture he is authorized to cooperate with State officials charged with the enforcement of State laws relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers; but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this Act shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect. This Act shall not be construed so as to limit the operation of any statute of the United States relating to warehouses or to warehousemen, weighers, graders, inspectors, samplers, or classifiers now in force in the District of Columbia or in any Territory or other place under the exclusive jurisdiction of the United States.

Sec. 30. That every person who shall forge, alter, counterfeit, simulate, or falsely represent, or shall without proper authority use, any license issued by the Secretary of Agriculture, or his designated representative, under this Act, or who shall violate or fail to comply with any provision of Section 8 of this Act, or who shall issue or utter a false or fraudulent receipt or certificate, or change in any manner an original receipt or certificate subsequently to issuance by a licensee, or any person who, without lawful authority, shall convert to his own use, or use for purposes of securing a loan, or remove from a licensed warehouse contrary to this Act or the regulations promulgated thereunder, any agricultural products stored or to be stored in such warehouse, and for which licensed receipts have been or are to be issued, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$10,000, or double the value of the products involved if such double value exceeds \$10,000, or imprisoned not more than ten years, or both, in the discretion of the court, and the owner of the agricultural products so converted, used, or removed may, in the discretion of the Secretary of Agriculture, be reimbursed for the value thereof out of any fine collected hereunder, by check drawn on the Treasury at the direction of the Secretary of Agriculture, for the value of such products to the extent that such owner has not otherwise been reimbursed. That any person who shall draw with intent to deceive, a false sample of, or who shall willfully mutilate or falsely represent a sample drawn under this Act, or who shall classify, grade, or weigh fraudulently, any agricultural products stored or to be stored under the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof fined not more than \$500, or imprisoned for not more than six months, or both, in the discretion of the court.

Sec. 31. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$50,000, available until expended, for the expenses of carrying into effect the provisions of this Act, including the payment of such rent and the employment of such persons and means as the Secretary of Agriculture may deem necessary in the city of Washington and elsewhere, and he is authorized, in his discretion, to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the purposes of this Act, and out of the moneys appropriated by this Act to pay the salaries and expenses thereof.

Sec. 32. That if any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 33. That the right to amend, alter, or repeal this Act is hereby expressly reserved.



